

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Second Amended
Accusation Against:**

Joseph Robert Kuntze, M.D.

**Physician's and Surgeon's
Certificate No. G 46309**

Respondent.

Case No. 800-2020-069049

DECISION

**The attached Stipulated Settlement and Disciplinary Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on March 16, 2023.

IT IS SO ORDERED February 14, 2023.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D., Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 CAITLIN ROSS
Deputy Attorney General
4 State Bar No. 271651
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3615
6 Facsimile: (415) 703-5480
E-mail: Caitlin.Ross@doj.ca.gov
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Second Amended
13 Accusation Against:

14 **JOSEPH ROBERT KUNTZE, M.D.**
15 **225 Prado Road, Ste D**
San Luis Obispo, CA 93401-7363

16 **Physician's and Surgeon's Certificate**
17 **No. G 46309**

18 Respondent.

Case No. 800-2020-069049

OAH No. 2022040891

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
25 California (Board). He brought this action solely in his official capacity and is represented in this
26 matter by Rob Bonta, Attorney General of the State of California, by Caitlin Ross, Deputy
27 Attorney General.
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2. Respondent Joseph Robert Kuntze, M.D. (Respondent) is represented in this proceeding by attorney Mark B. Connely, Esq., whose address is: 444 Higuera Street, Third Floor, San Luis Obispo, CA 93401.

3. On or about October 13, 1981, the Board issued Physician's and Surgeon's Certificate No. G 46309 to Joseph Robert Kuntze, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Second Amended Accusation No. 800-2020-069049, and will expire on April 30, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2020-06049 was filed before the Board on September 17, 2021. The Accusation and all other statutorily required documents were properly served on Respondent on September 17, 2021. First Amended Accusation No. 800-2020-06049 was filed before the Board on December 29, 2021. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on December 29, 2021. Second Amended Accusation No. 800-2020-069049 was filed before the Board on September 14, 2022, and is currently pending against Respondent. The Second Amended Accusation and all other statutorily required documents were properly served on Respondent on September 14, 2022. Respondent timely filed his Notice of Defense contesting the charges and allegations against him.

5. A copy of Second Amended Accusation No. 800-2020-069049 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Second Amended Accusation No. 800-2020-069049. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Second Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the

1 production of documents; the right to reconsideration and court review of an adverse decision;
2 and all other rights accorded by the California Administrative Procedure Act and other applicable
3 laws.

4 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
5 every right set forth above.

6 CULPABILITY

7 9. Respondent understands and agrees that the charges and allegations in Second
8 Amended Accusation No. 800-2020-069049, if proven at a hearing, constitute cause for imposing
9 discipline upon his Physician's and Surgeon's Certificate.

10 10. Respondent does not contest that, at an administrative hearing, Complainant could
11 establish a prima facie case or factual basis with respect to the charges and allegations in Second
12 Amended Accusation No. 800-2020-069049, a true and correct copy of which is attached hereto
13 as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. G
14 46309 to disciplinary action. Respondent hereby gives up his right to contest those charges.

15 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
16 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
17 Disciplinary Order below.

18 CONTINGENCY

19 12. This stipulation shall be subject to approval by the Medical Board of California.
20 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
21 Board of California may communicate directly with the Board regarding this stipulation and
22 settlement, without notice to or participation by Respondent or his counsel. By signing the
23 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
24 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
25 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
26 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
27 action between the parties, and the Board shall not be disqualified from further action by having
28 considered this matter.

1 medical record keeping course shall be at Respondent's expense and shall be in addition to the
2 Continuing Medical Education (CME) requirements for renewal of licensure.

3 A medical record keeping course taken after the acts that gave rise to the charges in the
4 First Amended Accusation, but prior to the effective date of the Decision may, in the sole
5 discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the
6 course would have been approved by the Board or its designee had the course been taken after the
7 effective date of this Decision.

8 Respondent shall submit a certification of successful completion to the Board or its
9 designee not later than 15 calendar days after successfully completing the course, or not later than
10 15 calendar days after the effective date of the Decision, whichever is later.

11 Failure to enroll, participate in, or successfully complete the medical record keeping course
12 within the designated time period shall constitute unprofessional conduct and grounds for further
13 disciplinary action.

14 2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar
15 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
16 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
17 Respondent shall participate in and successfully complete that program. Respondent shall
18 provide any information and documents that the program may deem pertinent. Respondent shall
19 successfully complete the classroom component of the program not later than six (6) months after
20 Respondent's initial enrollment, and the longitudinal component of the program not later than the
21 time specified by the program, but no later than one (1) year after attending the classroom
22 component. The professionalism program shall be at Respondent's expense and shall be in
23 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

24 A professionalism program taken after the acts that gave rise to the charges in the
25 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
26 or its designee, be accepted towards the fulfillment of this condition if the program would have
27 been approved by the Board or its designee had the program been taken after the effective date of
28 this Decision.

1 Respondent shall submit a certification of successful completion to the Board or its
2 designee not later than 15 calendar days after successfully completing the program or not later
3 than 15 calendar days after the effective date of the Decision, whichever is later.

4 Failure to enroll, participate in, or successfully complete the professionalism program
5 course within the designated time period shall constitute unprofessional conduct and grounds for
6 further disciplinary action.

7 3. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
8 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
9 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
10 enforcement, as applicable, in the amount of \$4,545.00 (four thousand, five hundred and forty-
11 five dollars). Costs shall be payable to the Medical Board of California.

12 Payment must be made in full within 30 calendar days of the effective date of the Order, or
13 by a payment plan approved by the Medical Board of California. Any and all requests for a
14 payment plan shall be submitted in writing by respondent to the Board.

15 Failure to complete payment of these costs in accordance with the terms of this Stipulated
16 Settlement and Disciplinary Order shall constitute unprofessional conduct and grounds for further
17 disciplinary action.


18 4. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply
19 for a new license or certification, or petition for reinstatement of a license, by any other health
20 care licensing action agency in the State of California, all of the charges and allegations contained
21 in First Amended Accusation No. 800-2020-069049 shall be deemed to be true, correct, and
22 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
23 seeking to deny or restrict license.

24 ACCEPTANCE

25 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
26 discussed it with my attorney, Mark B. Connely, Esq. I understand the stipulation and the effect
27 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
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1 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
2 Decision and Order of the Medical Board of California.

3
4 DATED: 10/11/22


JOSEPH ROBERT KUNTZE, M.D.
Respondent

6 I have read and fully discussed with Respondent Joseph Robert Kuntze, M.D. the terms and
7 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
8 I approve its form and content.

9 DATED: 10/11/22


MARK B. CONNELLY, ESQ.
Attorney for Respondent

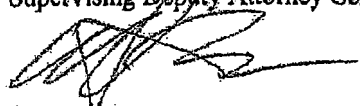
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12 **ENDORSEMENT**

13 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
14 submitted for consideration by the Medical Board of California.

15 DATED: 10-11-22

16 Respectfully submitted,

17 ROB BONTA
Attorney General of California
18 STEVE DIEHL
Supervising Deputy Attorney General

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20 CAITLIN ROSS
21 Deputy Attorney General
22 Attorneys for Complainant
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7 *Attorneys for Complainant*

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14 **JOSEPH ROBERT KUNTZE, M.D.**
225 Prado Road, Ste. D
15 San Luis Obispo, CA 93401-7363

SECOND AMENDED ACCUSATION

16 **Physician's and Surgeon's Certificate**
No. G 46309,

17 Respondent.
18

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20 **PARTIES**

21 1. William Prasifka (Complainant) brings this Second Amended Accusation solely in his
22 official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs (Board).

24 2. On or about October 13, 1981, the Board issued Physician's and Surgeon's Certificate
25 Number G 46309 to Joseph Robert Kuntze, M.D. (Respondent). The Physician's and Surgeon's
26 Certificate was in full force and effect at all times relevant to the charges brought herein and will
27 expire on April 30, 2023, unless renewed.
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1 **COST RECOVERY**

2 8. Effective January 1, 2022, Section 125.3 of the Code provides, in pertinent part, that
3 the Board may request the administrative law judge to direct a licensee found to have committed
4 a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case, with failure of the licensee to comply subjecting the
6 license to not being renewed or reinstated. If a case settles, recovery of investigation and
7 enforcement costs may be included in a stipulated settlement.

8 **FACTUAL ALLEGATIONS**

9 9. On July 6, 2020, Patient A¹ underwent a kidney-stone removal procedure. As part of
10 this procedure, a JJ stent (a flexible hollow tube with a coil on each end) was inserted into Patient
11 A's ureter (the muscular tube connecting the kidney to the bladder). After the kidney-stone
12 removal procedure is complete, the stent remains in the ureter and a practitioner removes the stent
13 on a later date.

14 10. On July 14, 2020, Patient A had a follow-up encounter with Respondent to remove
15 the stent.

16 11. JJ stents can be removed inpatient under general anesthesia or outpatient under local
17 anesthesia. Inpatient procedures done under general anesthesia prevent the patient from feeling
18 anything, but they carry the attendant risks associated with any procedure occurring under general
19 anesthesia. Stent removal occurs via a cystoscopic procedure where a practitioner inserts a
20 cystoscope into the urethra. A cystoscope is a tubular scope for examining the interior of the
21 bladder. Once the stent in the bladder is identified, the physician uses the cystoscope's grasper to
22 remove the stent through the urethra and out of the body.

23 12. Respondent was aware that Patient A was concerned about having the procedure done
24 under local anesthesia at Respondent's office. However, staff at Respondent's office convinced
25 Patient A to undergo the procedure outpatient at Respondent's office.

26 ///

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28 ¹ To protect her privacy, Patient A's identity has been withheld. Respondent is aware of Patient A's identity.

1 13. Respondent performed Patient A's outpatient stent-removal procedure via cystoscopy
2 procedure. A cystoscopy procedure involves inserting the cystoscope into the urethra—placing
3 instruments or fingers in the vagina is not a routine part of the cystoscopy examination. Placing
4 instruments or fingers in the vagina should only be performed with the knowledge and consent of
5 the patient. However, during the stent-removal procedure, the cystoscope did not initially enter
6 Patient A's urethra, and instead Respondent's cystoscope entered Patient A's vagina.

7 14. After the cystoscope entered the vagina, Respondent did not see the stent or the
8 normal anatomy he would expect for the urethra. A physician should always inform the patient
9 about what is happening or about to happen during the procedure. But that did not happen here.
10 If there was trouble finding the urethra, Respondent should have informed Patient A about this
11 and explained what he was going to do. But without explaining to Patient A the procedure's
12 status or advising Patient A what he planned to do, Respondent slid his finger along the
13 cystoscope into Patient A's vagina and did not feel the septum between the urethral opening and
14 anterior vaginal wall, confirming for Respondent that the cystoscope was in the vagina. Without
15 advising Patient A what he planned to do, Respondent then used his finger to get the scope to the
16 urethra and inserted the cystoscope into the correct location. Respondent then completed the
17 stent-removal procedure.

18 15. On the day of the stent-removal encounter with Respondent, Respondent made
19 unprofessional and inappropriate comments to Patient A, when he referred to Patient A as "little
20 miss" and "young lady." And Respondent admits to referring to many patients as "little brother"
21 or "little sister." This type of language is inappropriate. Physicians may not assume that calling
22 the patient by a nickname or other forms of address is appropriate unless the patient specifically
23 requests the physician to do so.

24 16. When Respondent performed the stent-removal procedure on Patient A, Respondent's
25 brief medical record for the procedure omitted several details. Respondent failed to mention
26 which side the stent was removed from—this is important in order to confirm that the original
27 correct side had been operated on. Respondent's medical record also failed to state whether there
28 was trouble removing the stent, or if the stent was removed intact. The medical record also did

1 not state the preparation solution—this is important because different types of preparations can
2 potentially cause different adverse reactions for the patient. The medical record also did not
3 describe whether any water-soluble lubricant was used—such lubricant may provide some
4 discomfort relief. Respondent's medical record also stated that he used 30- and 70-degree lenses
5 for the procedure. This is not supported by the witness descriptions of the procedure.

6 17. Respondent's medical records did not have complete documentation of the informed
7 consent process, including full disclosure regarding the nature, risks, benefits, and alternatives of
8 removal of the stent-removal procedure being discussed with Patient A.

9 CAUSE FOR DISCIPLINE

10 **(Unprofessional Conduct; Repeated Negligent Acts; Inadequate Recordkeeping)**

11 18. Paragraphs 9 through 17 are incorporated here as if set out in full.

12 19. Respondent Joseph Robert Kuntze, M.D. is subject to disciplinary action under
13 sections 2234; 2234, subdivision (c); and/or 2266 of the Code, in that:

14 a. Respondent's reference to Patient A as "little miss" and "young lady" constituted a
15 failure to treat the patient with professionalism, courtesy, respect, and dignity, and a departure
16 from the standard of care.

17 b. Respondent's brief medical record for the procedure omitted important details and
18 constituted a failure to maintain accurate and adequate medical records, and a departure from the
19 standard of care.

20 c. Respondent's medical records did not have complete documentation of the informed
21 consent process, including full disclosure regarding the nature, risks, benefits, and alternatives of
22 the stent-removal procedure being discussed with Patient A, which constitutes a departure from
23 the standard of care.

24 DISCIPLINARY CONSIDERATIONS

25 20. To determine the degree of discipline, if any, to be imposed on Respondent Joseph
26 Robert Kuntze, M.D., Complainant alleges that on or about January 4, 2018, in a prior action, the
27 Medical Board of California issued Citation Number 800-2017-038048 for failure to maintain
28

adequate records and ordered Respondent to pay an administrative fine of \$350. That Citation is now final and is incorporated by reference as if fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:


1. Revoking or suspending Physician's and Surgeon's Certificate Number G 46309, issued to Respondent Joseph Robert Kuntze, M.D.;

2. Revoking, suspending or denying approval of Respondent Joseph Robert Kuntze, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Joseph Robert Kuntze, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: SEP 14 2022


WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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